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No. 82-411

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

NEWPORT NEWS SHIPBUILDING
and DRY DOCK COMPANY,
Petitioner,

v.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Respondent.

BRIEF AMICUS CURIAE ON BEHALF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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STATEMENT OF INTEREST[1]

The Chamber of Commerce of the United States ("Chamber") is the largest federation of business organizations and individuals in the United States. One of its principle functions is to serve as a spokesman for its members before this Court, as well as the lower federal courts and regulatory agencies. In this regard the Chamber often files briefs in support of petitions for

[1] Pursuant to Supreme Court Rule 36.1, this brief is filed with the written consent of the parties to this action.

writs of certiorari.[2] At present the Chamber's membership exceeds 250,000, including over 240,000 corporations, partnerships, proprietorships and individuals, as well as 1,350 trade associations, and 2,700 local and state chambers of commerce.

The Chamber has advocated its members' views on the issue presented in this case since the adoption of the Equal Employment Opportunity Commission's ("EEOC" or "Commission") Guidelines on Sex Discrimination, 29 C.F.R. §1604.10(b)(1981). Indeed, the National Chamber Litigation Center, Inc., the Chamber's litigation affiliate, is representing the plaintiff in the first case filed in federal district court challenging the guidelines at issue here, as well as several others.[3] The Chamber also filed briefs *amicus curiae* in this matter before the United States Court of Appeals for the Fourth Circuit, both before the panel and before the *en banc* court.

The issue presented here, whether the EEOC exceeded its statutory authority in promulgating guidelines which mandate that all employers subject to Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, provide pregnancy insurance for spouses of employees when other spousal coverage is provided, is of substantial importance to an overwhelming majority of the Chamber's members.[4] As a letter from one member indicates, the cost for a single company to comply with these guidelines can exceed $450,000. (*See* Exhibit 1 to this brief.) Despite these tremendous costs, the EEOC has stated that no consideration was given to the economic impact of these regulations. (*See* Exhibit 2.)

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[2] *See e.g., Metropolitan Edison Company, et al.* v. *People Against Nuclear Energy, et al.*, (Nos. 81-2399, 82-358 July 1, 1982) (Petitions pending); *First National Maintenance Corp.* v. *NLRB*, 449 U.S. 1076 (1981); *Northwest Airlines* v. *Transport Workers of America, AFL-CIO, et al.*, 447 U.S. 920 (1980); *Rockwell International Corp.* v. *City of New York, et al.*, No. 81-904, ____U.S.____, 102 S.Ct. 1038 (Jan. 11, 1982); *Weyerhaeuser Company, et al.* v. *Lyman Lamb Co., et al.*, Nos. 81-1618, 81-1619, ____U.S.____, 102 S.Ct. 2232 (May 17, 1982).

[3] *Kansas Association of Commerce & Industry* v. *EEOC*, No. 79-4145 (D. Kansas)(cross motions for summary judgement pending).

[4] Title VII applies to all employers of 15 or more persons.

Further, as the affidavit from Charles Ginsberg of Alexander and Alexander, Inc.[5] attests, it was common practice prior to promulgation of the guidelines, for employers to place limitations on dependants' pregnancy benefits. (*See* Exhibit 3.) (The original copies of Exhibits 1,2 and 3 are lodged with the United States District Court for the District of Kansas in *Kansas Association of Commerce and Industry* v. *EEOC, supra* at footnote 3.) Thus the challenged guidelines mandate substantial changes in the health insurance policies of many Chamber members.

For all of these reasons, the Chamber respectfully files this brief.

REASONS FOR GRANTING THE WRIT

I. THE CONFLICTING APPELLATE COURT OPINIONS ON THIS QUESTION PLACE EMPLOYERS IN A DIFFICULT QUANDRY.

The issue presented here, whether the EEOC exceeded its statutory authority in promulgating guidelines which mandate that all employers subject to Title VII (those with 15 or more employees) provide medical insurance for the pregnancies of the spouses of employees equivalent to the medical insurance provided for non-pregnancy conditions, is of significance to most employers in the United States. As a result of the decision below in the U.S. Court of Appeals for the Fourth Circuit, which directly conflicts with an opinion of the U.S. Court of Appeals for the Ninth Circuit in *EEOC* v. *Lockheed Missiles & Space Co.*, 680 F.2d 1243 (9th Cir. 1982), employers are placed in a difficult quandry when structuring benefit packages for their employees.

---

[5] "Alexander and Alexander, the second largest international insurance brokerage firm, provides through its 7,200 employees, a broad range of risk management and financial services to businesses of all kinds and all sizes. It plans, places and services all types of insurance programs . . ." Alexander and Alexander Annual Report for 1980, inside front cover.

As we have noted above, it is quite common for employees to have limitations on the medical benefits for spouses' pregnancies, such as those imposed by Newport News. Thus employers are placed in the difficult position of either maintaining their current policies and risking legal action by the EEOC, employees, or their union, or paying substantially more for insurance coverage in order to come into compliance with the EEOC's guidelines.

The difficulty of making this decision is compounded by the conflicting appellate court decisions referred to above, particularly for employers doing business on a multistate basis.[6] Only resolution of the issue presented here can effectively end this predicament.

II. THE DECISION OF THE FOURTH CIRCUIT IS INCONSISTENT WITH THE LEGISLATIVE HISTORY OF THE PREGNANCY DISCRIMINATION ACT.

On October 31, 1978 Congress amended Title VII of the Civil Rights Act of 1964 ("Act"), 42 U.S.C. §2000e *et. seq.*[7] by enacting the Pregnancy Discrimination Act ("PDA"). Pub.L. 95-955. The purpose of the PDA was "to insure that *working women* are protected against all forms of employment discrimination based on sex." S. Rep. No. 331, 95th Cong., 1st

[6] A number of district courts have also addressed this question and have, with one exception, ruled against the EEOC. *See EEOC* v. *Joslyn Mfg. & Supply Co.*, 524 F.Supp. 1141 (N.D. Ill. 1981), *appeal docketed*, No. 82-1134 (7th Cir. April 14, 1982); *EEOC* v. *Emerson Electric Co.*, 539 F.Supp. 153 (E.D. Mo. 1982), *appeal docketed*, No. 82-1647 (8th Cir. May 27, 1982). *See also, EEOC* v. *Lockheed Missiles & Space Co., Inc.*, 27 FEP Cases 1209 (N.D. Cal. 1981), *aff'd* 680 F.2d 1243 (9th Cir.), petition for rehearing denied, No. 81-4542 (Sept. 27, 1982). The only district court to have ruled in favor of the EEOC was the Central District of California in *United Teachers-Los Angeles* v. *Bd. of Education*, 29 Empl. Prac. Dec. 32,759, *appeal docketed*, No. 82-5360 (9th Cir. March 12, 1982). Of course, the Ninth Circuit's opinion in *Lockheed, supra*, effectively reversed this opinion.

[7] Hereinafter, all references to Title VII will be to sections of the Act.

Sess. July 6, 1977 (emphasis added).[8] In doing so, Congress, in essence reversed this Court's decision in *General Electric* v. *Gilbert*, 429 U.S. 125 (1976), to the extent it applied to female employees.[9]

However, the legislative history makes it abundantly clear that Congress did not intend to change existing law (i.e. the rule of law in *Gilbert*) as it applies to dependants of employees. The Fourth Circuit overlooked or misapprehended this legislative history in holding that the EEOC's guidelines at issue here were valid interpretations of the PDA. When viewed in its entirety, the legislative history reveals that the court below erred in its interpretation of at least two material points of law: (1) the majority's interpretation of the legislative history relating to spousal benefits gives weight to the views of only two senators whose views are totally isolated and in stark contrast to a host of other legislators in both houses; and (2) the majority's interpretation of the language "ability or inability to work" is not consistent with the legislative history which addresses or explains that language.

In this regard, the principal Congressional sponsors of the legislation repeatedly expressed their intent that the Pregnancy Discrimination Act was to apply only to "female *employees*" or "*working* women." Yet, the decision below is devoid of reference to these portions of the legislative history, as well as the committee reports, both of which normally carry great weight in resolving disputes as to the meaning of statutes.

---

[8] This report, along with substantial other portions of the legislative history of the Pregnancy Discrimination Act are printed in a Committee Print dated June 1980, and prepared for the Senate Committee on Labor and Human Resources. Hereinafter, references to the Committee Print will refer to the Legislative History ("Leg. Hist.").

[9] In *Gilbert*, the Supreme Court rejected pregnancy discrimination guidelines the Commission had issued in 1975. The Court held that employers who exclude pregnancy-related disabilities from coverage under income protection plans do not discriminate on the basis of sex under Title VII. Referring to the Commission's regulation, the Court dismissed it as being inconsistent with prior agency pronouncements and in conflict with "other indicia of the proper interpretation of the sex-discrimination provisions of Title VII." 429 U.S. at 14

Senator Harrison Williams, Chairman of both the subcommittee and committee responsible for the legislation, and a principal sponsor of the legislation,[10] stated on introducing S. 995, which ultimately became the PDA:

> ". . . the Supreme Court's decision . . . in the case of Gilbert against General Electric Co. came as a deep disappointment to *working women* across the nation . . . The 6-3 majority in the Gilbert case concluded that *women who must take time off from work* because of pregnancy or related disabilities are not entitled by law to the same benefits that their employers provide for workers who have contracted other disabilities (emphasis added).

Leg. Hist. at 1. *See also* Leg. Hist. at 40.

Senator Jacob Javits, the ranking minority member on the Senate Labor and Human Resources Committee, obviously agreed that the statute's purpose was limited to aiding women employees. During floor debate on the Senate Bill, Senator Javits stated:

> This legislation does not represent a new initiative in employment discrimination law, neither does it attempt to expand the reach of Title VII of the Civil Rights Act of 1964 into new areas of employment relationships. Rather, this bill is simply corrective legislation, designed to restore the law with respect to pregnant *women employees* to the point where it was last year, before the Supreme Court's decision in Gilbert v. General Electric Corp., 426 U.S. 125 (1976).
>
> . . . . . .
>
> This approach represents only basic fairness for employees who become pregnant. *Without this legislation, they may face a series of obstacles to continuing the*

[10] Senator Williams' statements have added weight in light of the fact that "[i]t is the sponsors that we look to when the meaning of the statutory words is in doubt." *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384 (1950); *Woodwork Manufacturers Association* v. *NLRB*, 386 U.S. 612 (1967); *NLRB* v. *Fruit and Vegetable Packers and Warehousemen*, 377 U.S. 58 (1964).

pregnancy to term while maintaining their jobs and their incomes. Many women temporarily disabled by pregnancy have been forced to take leave without pay or to resign.

. . . . . .

Mr. President, we can no longer in this country legislate with regard to *women workers* on the basis of outdated stereotypes and myths.

. . . . . .

Arbitrary job discrimination against women based on pregnancy or childbirth has no place in our society. It is my belief that the Federal Government, as a matter of vital social policy, has the responsibility of enacting those laws necessary to assure women of their opportunity for full participation in the workforce (emphasis added).

Leg. Hist. 66-68. Despite the obvious relevance of all of the foregoing legislative history, the Fourth Circuit's decision makes no reference to it.

Moreover, the court below overlooked a telling exchange between Senators Williams and Orrin Hatch which conclusively demonstrates that the statute's application was to be limited to female employees:

Mr. Hatch. The phrase "women affected by pregnancy, childbirth or related medical conditions," . . . appears to be overly broad, and is not limited in terms of employment. It does not even require that the person so affected be pregnant. *Indeed, under the present language of the bill, it is arguable that spouses of male employees are covered by this civil rights amendment.* . . . Could the sponsors clarify exactly whom that phrase intends to cover?

. . . . .

Mr. Williams. With regard to more (sic) maintenance plans for pregnancy-related disabilities, I do not see how this language could be misunderstood.

Mr. Hatch. Because it is very broadly drafted and if we say "affected by" it, that included all of those illustrations that I have just enumerated. If it does not, *I want to be sure that everybody knows from the record that it only refers to the woman employee who is pregnant or who becomes pregnant after her employment.*

Mr. Williams. If there is any ambiguity, with regard to income maintenance plans, I cannot see it. "... shall be treated the same for all employment-related purposes." *I do not see how one can read into this any pregnancy other than pregnancy that relates to the employee, and if there is any amiguity, let it be clear here and now that this is very precise. It deals with a woman, a woman who is an employee,* an employee in a work situation where all disabilities are covered under a company plan that provides income maintenance in the event of medical disability; that her particular period of disability, when she cannot work because of childbirth or anything related to childbirth, is excluded. It is narrowly drawn and would not give any employee the right to obtain income maintenance as a result of the pregnancy of someone who is not an employee.

Mr. Hatch. OK; or the effects on other people as a result of the pregnancy of any female employee.

Mr. Williams. Exactly. It does not.

Mr. Hatch. So the Senator is satisfied that, though the committee language I brought up, "woman affected by pregnancy" seems to be ambiguous, *what it means is that this act only applies to the particular woman who is actually pregnant, who is an employee and has become pregnant after her employment?*

Mr. Williams. *Exactly.*

Leg. Hist. at 80. (emphasis added)

These extensive quotes from the legislative history of the PDA demonstrate that without exception, the Senate proponents of the Act repeatedly articulated the need for remedial legislation to aid *working women. EEOC* v. *Emerson Electric, Co.*, 539 F.Supp. 153 at 156-157. (E.D. Mo. 1982), *appeal docketed,* No. 82-1647 (8th Cir. May 27, 1982).

The same is true as regards proponents in the House of Representatives. For example, Congressman Augustus F. Hawkins, who introduced the House bill noted the tremendous increases in the numbers of women in the American work force. Congressman Hawkins stated, "[i]n the last decade women accounted for nearly three-fifths of the increase in the civilian labor force." Leg. Hist. at 12.

Likewise, speaking on the Senate Floor Senator Williams expounded:

> In recent years, the family unit has undergone many changes. There are more women in the workforce now than ever before, both married and unmarried. Approximately 46 percent of all women over the age of 16 are in the labor force today. There are now 39 million women who are working or seeking work. Twenty-five million of these women are doing so because of the basic need to support their families-because they have husbands who earn less than $7000 a year or because they are single, divorced, or widowed.

Leg. Hist. at 3.

Despite the overwhelming weight of the legislative history outlined above, the Fourth Circuit ignores it, relying solely on isolated statements by Senators Bayh and Cranston. The majority's reliance upon Senator Bayh's statement is particularly puzzling because, rather than definitive, the Senator's statement is contemplative and reflective in tone. The Senator states:

> While *it is difficult to second-guess the courts,* I feel that the history of sex discrimination cases under the 14th amend-

> ment in addition to previous interpretations of the Title VII regulations relating to the treatment of dependents *will* require that if companies choose to provide full coverage to the dependents of their female employees, then they must provide such complete coverage to the dependents of their male employees. (emphasis added).

Leg. Hist. at 75. In fact, the Ninth Circuit in *Lockheed Missiles & Space Co., supra,* relied on this same language for its conclusion that the dependents' benefits question must be resolved on the basis of pre-PDA law. 680 F.2d 1245 at n.2. See also *EEOC* v. *Emerson Electric Co., supra,* 539 F.Supp. at 156. Quite the contrary to the Senator's musings, the Supreme Court held in *Geduldig* v. *Aiello,* 417 U.S. 484 (1974), that the exclusion of pregnancy benefits does not violate the 14th amendment.

Thus, the sole support for the Court's conclusion becomes Senator Cranston's *unsupported* statement that, in his view, pregnancy benefits for the spouses of males are mandated. We submit that Senator Cranston's view, in light of the overwhelming views to the contrary, is unimpressive.

Moreover, even Senator Cranston, in describing the need for the PDA, referred to the "treatment of pregnant women in covered employment" and the need to "focus not on their condition alone, but on the actual effects of that condition on their ability to work." Leg. Hist. at 130-131. *See EEOC* v. *Lockheed Missiles & Space Systems Co., supra* at n.2.

The Fourth Circuit majority, relying on the Senate Committee Report, concludes that Congress may well have intended to leave the question of dependents' benefits an "open question." (Slip op. at 8) Despite this concession, the majority rejects Newport News' contention that the question of dependents' benefits should be resolved upon a consideration of the reach of Title VII prior to enactment of the Pregnancy Discrimination Act; that is, judged by the standard laid down by this court in *General Electric* v. *Gilbert, supra.* But in doing so, the majority overlooks a significant statement in the same committee report:

> . . . it must be remembered that the basic purpose of this bill is to protect women employees, it does not alter the basic principles of Title VII law as regards sex discrimination.
>
> * * *
>
> Therefore, the question in regard to dependents' benefits would be determined on the basis of existing Title VII principles.

Leg. Hist. at 42-43.

The plain and only meaning of "existing" in this context is the case and statutory law in existence prior to passage of the Pregnancy Discrimination Act. Accordingly, the majority's rejection of the company's contention that pre-Title VII principles were controlling was clear error.

III. THE MAJORITY OPINION MISCONSTRUED THE LANGUAGE OF THE STATUTE.

The majority's opinion, as pointed out by the dissent, strains the language of the Pregnancy Discrimination Act which states that ". . . women affected by pregnancy . . . shall be treated the same for all employment related purposes . . . as other persons similar in their ability or inability to work . . .". In this regard, the majority states that whether or not benefits are provided to a spouse of an employee is an "employment-related purpose." (Appendix 5a) The court further states:

> The statutory reference to "ability or inability to work" denotes disability and does not suggest that the spouse must be an employee of the employer providing the *coverage*. In fact, the statute says "as other *employees* not so affected."

Appendix 6a.

In addition to the logical imperative that a "person similar in their ability or inability to work" must be an employee, the majority overlooks legislative history which demonstrates that Congress repeatedly used the terms "employee" and "person" interchangeably. Both the Senate and House Committee Reports, which accompanied the final legislation, stated:

> . . . The bill would simply require that pregnant women be treated the same as *other employees* on the basis of their ability or inability to work. (emphasis added).

Leg. Hist. at 40 (Senate Report) and 150-151 (House Report).

Moreover, Congressman Augustus F. Hawkins who introduced the House version of the bill which became the Pregnancy Discrimination Act described the Congressional intent as follows:

> H.R. 6075 was introduced during the first session of the 95th Congress to clarify Congressional intent that sex discrimination includes discrimination based on pregnancy and specifically to define the standards which require that *pregnant workers be treated the same as other employees on the bases of their ability or inability to work.*

Leg. Hist. at 166.

Congressman Hawkins' view of the legislation's purpose had not changed by the end of the legislative process for he used identical terms in calling up the Conference Report. *See* Leg. Hist. at 206.

It is, of course, significant that the language of the Congressional Reports, as well as that of Congressman Hawkins is identical to that of the statute except that the word "employees" is used instead of "persons." It is beyond cavil that they have been used interchangeably. Accordingly, the Fourth Circuit's overlooking of the legislative history justifies granting Petitioner's writ.

CONCLUSION

For the foregoing reasons, the Chamber respectfully urges this Court to grant the Petition for Certiorari.

Respectfully submitted,

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Counsel of Record

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Exhibit 1

FMC Corporation

Executive Offices
200 East Randolph Drive
Chicago Illinois 60601
(312) 861-6000

October 22, 1980

Mr. Steven A. Bokat
National Chamber Litigation Center
1615 M. Street, N. W.
Washington, DC 20062

Dear Steve:

As discussed, an actuarial valuation was conducted on the cost impact of various aspects of the Pregnancy Discrimination Act on our health care plans. The valuation was completed on June 6, 1980 by a "big-eight" accounting firm with expertise in health care plan valuations. Generally acceptable actuarial sources, including HHS data, was utilized in the study.

The estimated annual claim cost projected for the twelve month period commencing September 1, 1980 are:

- Increasing the maternity coverage of *female spouses* to the level of covering maternity as any other disability (MAAOD) with immediate coverage (first nine months of employment and no extended coverage (after employment ceases).
  Annual Cost = $454,700.
- Providing extended maternity coverage for *female employees* on a MAAOD basis.
  Annual Cost = $97,700.
- Providing extended maternity coverage for *female spouses* on a MAAOD basis.
  Annual Cost = $204,400.

- Providing immediate maternity coverage for *female spouses* on a MAAOD basis.
  Annual Cost = $180,600.

The challenged guidelines will force us to incur an estimated annual $937,400 increase in our health care plans. Since the PDA has unfavorable cost consequences to us, we will be pleased to assist you and the NCLC in any possible manner.

Best regards,

s/s Ken

K. J. Morrissey, Manager
Employee Benefits

cc: V. H. Hare

Exhibit 2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20506

Stanley T. Kaleczyc, Esquire
The National Chamber Litigation Center
1615 H Street, N.W.
Washington, D.C. 20062
Certified No. 753100
RETURN RECEIPT REQUESTED

In Response Refer To: 79-7-FOIA-213

Dear Mr. Kaleczyc:

This is in response to your Freedom of Information Act request of July 2, 1979. Inasmuch as we were unable to conduct, within the allotted amount of time, a search for the records which you seek, you agreed to an additional extension of 7 working days until August 21, 1979.

You request all correspondence received, as well as documents (surveys, etc.) generated, by the Commission regarding the economic impact, on employers, of the recent amendment of the Commission's Guidelines on Discrimination Because of Sex. You indicate, however, that you do not seek correspondence received during the period that was allowed for public comment on the amendment of the subject guidelines.

The cost of copying the subject records is $27.00. The cost of conducting the search is $80.00. Thus, the total cost of processing your request is $107.00. This will confirm, however, that Mr. Bokat of your office explained in a telephone conversation with Calvin Washington of my staff that the cost of processing your request exceeds the amount you wish to pay. Accordingly, Mr. Bokat indicated that the request would be withdrawn.

Additionally, in the aforementioned telephone conversation, Mr. Bokat requested that we provide a statement as to whether the EEOC has conducted a survey or study concerning the economic impact, on employers, of complying with the amendments to EEOC Guidelines on Discrimination Because of Sex. This will confirm that the Commission has not engaged in any such project.

Sincerely,

/s/ CONSTANCE L. DUPRE
Associate General Counsel
Legal Counsel Division

Exhibit 3

AFFIDAVIT

I, Charles E. Ginsberg, being duly sworn, state that:

1. I am a Vice President and Assistant Manager of the Research and Technical Services division of the Human Resource Management group of Alexander & Alexander.

2. Alexander & Alexander's Human Resource Management group consists of more than three hundred professionals in sixty-four cities. We have more than five thousand clients, one hundred seventy-four of whom are in the Fortune 1000.

3. Prior to enactment of the Pregnancy Discrimination Act, it was common for employers who provided health benefit plans to place dollar or duration (i.e., day) limitations on female employee or dependent medical benefits for maternity, and to require conception to occur after plan coverage commenced.

4. Prior to enactment of the Pregnancy Discrimination Act, it was not uncommon for employers to require female employees to purchase family coverage in order to be covered for maternity.

5. Prior to publication of the EEOC's interpretation of the Pregnancy Discrimination Act with respect to the extension of medical benefit coverage beyond employment termination, most employers who provided such an extension did so on the following basis:

   (a) employees were provided extended benefits for nonpregnancy-related conditions only if they were totally disabled at the time of termination.

   (b) employees pregnant at the time of employment termination were provided extended benefits for pregnancy-related conditions, whether or not disability existed.

6. Since publication of the EEOC's interpretation of the extended benefits requirements, there has been a definite trend among our clients to require total disability at termination of employment for benefits to be extended for all conditions. Thus, in such cases, nonpregnancy-related conditions are treated as before and pregnancy-related conditions require total disability at termination. As a result, the pregnant employee who is not totally disabled at termination loses the extension of benefits coverage she had prior to publication of the EEOC interpretation of the Act.

7. The above statement as to employer trends is based on a telephone survey of A&A consultants responsible for consulting with respect to health benefits programs, both on a personal and supervisory basis. They are located in A&A's Kansas City, Los Angeles, New York, Detroit and Chicago offices.

/s/ CHARLES E. GINSBERG

Charles E. Ginsberg

COMMONWEALTH OF MASSACHUSETTS ESSEX } ss

November 26, 1980

Then personally appeared the above-named Charles E. Ginsberg, known to me, who declared that the above is true to the best of his knowledge and belief, before me

/s/ PAMELA J. RANKIN

Pamela J. Rankin,
Notary Public

My commission expires 12/08/83